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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,865	12/04/2003	Daryl Carvis Cromer	RPS920030185US1	7888
53792	7590	05/25/2006	EXAMINER	
DILLON & YUDELL LLP 8911 N. CAPITAL OF TEXAS HWY. SUITE 2110 AUSTIN, TX 78759			EHNE, CHARLES	
		ART UNIT	PAPER NUMBER	2113

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/727,865	CROMER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles Ehne	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,3-6,9,11-14,17 and 18 is/are rejected.  
 7) Claim(s) 2,7,8,10,15,16,19 and 20 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,3,9,11,12 and 17 are rejected under 35 U.S.C. 102(e) as being unpatentable by Sanu (2003/0233587).

As to claim 1, Sanu discloses a method comprising:

detecting a transmitted packet of data, the transmitted packet of data including:

a destination address for a data processing system that is powered by a battery,

a set of instructions to be executed by the data processing system, and a power

requirement to execute the set of instructions on the data processing system (page 3, ¶ 0022, lines 6-7);

comparing the power requirement to execute the set of instructions with a remaining power in the battery (page 3, ¶ 0022, lines 17-20);

in response to determining that the remaining power in the battery is sufficient to complete an execution of the set of instructions on the data processing system, executing the set of instructions on the data processing system (page 3, ¶ 0021, lines 10-12); and

in response to determining that the remaining power in the battery is not sufficient to complete the execution of the set of instructions on the data processing

system, prohibiting an initiation of the execution of the set of instructions on the data processing system (page 3, ¶ 0021, lines 12-15).

As to claim 3, Sanu discloses the method of claim 1, wherein the data processing system is a portable computer designed to be powered by the battery during normal operation (page 2, ¶ 0015, lines 1-2).

As to claim 4, Sanu discloses the method of claim 3, wherein the portable computer is a device selected from the group consisting of a laptop computer, a tablet computer, a cell phone, and a personal digital assistant (PDA) (page 2, ¶ 0013, lines 1-3).

As to claim 9, Sanu discloses a system comprising:

a network interface for detecting a transmitted packet of data, the transmitted packet of data including:

a destination address for a data processing system that is powered by a battery, a set of instructions to be executed by the data processing system; and a power requirement to execute the set of instructions on the data processing system (page 3, ¶ 0022, lines 6-7); and

a management module for comparing the power requirement to execute the set of instructions with a remaining power in the battery, wherein, in response to determining that the remaining power in the battery is sufficient to complete an execution of the set of instructions on the data processing system, the management module directs the execution of the set of instructions on the data processing system, and wherein, in response to determining that the remaining power in the battery is not

sufficient to complete the execution of the set of instructions on the data processing system, the management module prohibits an initiation of the execution of the set of instructions on the data processing system (page 3, ¶ 0021, lines 6-15).

As to claim 11, Sanu discloses the system of claim 9, wherein the data processing system is a portable computer designed to be powered by the battery during normal operation (page 2, ¶ 0015, lines 1-2).

As to claim 12, Sanu discloses the system of claim 11, wherein the portable computer is a battery powered device from a group consisting of a laptop computer, a tablet computer, a cell phone, and a personal digital assistant (PDA) (page 2, ¶ 0013, lines 1-3).

As to claim 17, Sanu discloses a product comprising:  
a computer useable medium having computer readable program code stored therein, the computer readable program code in said product being effective when executing to:

detect a transmitted packet of data, the transmitted packet of data including: a destination address for a data processing system that is powered by a battery, a set of instructions to be executed by the data processing system, and a power requirement to execute the set of instructions on the data processing system (page 3, ¶ 0022, lines 6-7);

compare the power requirement to execute the set of instructions with a remaining power in the battery (page 3, ¶ 0022, lines 17-20);

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in response to determining that the remaining power in the battery is sufficient to complete an execution of the set of instructions on the data processing system, execute the set of instructions on the data processing system (page 3, ¶ 0021, lines 10-12); and

in response to determining that the remaining power in the battery is not sufficient to complete the execution of the set of instructions on the data processing system, prohibit an initiation of the execution of the set of instructions on the data processing system (page 3, ¶ 0021, lines 12-15).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanu taken in view of Terasawa ( 2001/0205123).

As to claim 5 and 13, Sanu discloses a method comprising:

detecting a transmitted packet of data, the transmitted packet of data including:  
a destination address for a data processing system that is powered by a battery,  
a set of instructions to be executed by the data processing system, and a power  
requirement to execute the set of instructions on the data processing system (page 3, ¶  
0022, lines 6-7). Sanu fails to disclose wherein the data processing system is a server  
designed to be powered by the battery only during a primary power failure.

Terasawa discloses a server that sends and receives data to and from terminal  
devices via wireless communication (Abstract, lines 3-5). Terasawa does disclose  
wherein the data processing system is a server designed to be powered by the battery  
only during a primary power failure (page 2, ¶ 0038, lines 15-22).

It would have been obvious to one of ordinary skill in this art at the time of  
invention by applicant to implement Terasawa's portable server in place of Sanu's  
portable device. A person of ordinary skill in this art would have been motivated to  
make the modification because by checking the state of a battery of a portable device  
provides assurance that the portable device will not run out of battery power during a  
requested operation and reduces the chance of any data corruption (Sanu: page 1, ¶  
0004, lines 14-25).

Claim 6,14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable  
over Sanu taken in view of Carter (4,980,836).

As to claim 6,14 and 18, Sanu discloses detecting a wake on LAN (WOL)  
message to wake up the computer (page 2, ¶ 0016, lines 5-11). Sanu fails to disclose  
wherein if upon receiving the WOL message, the data processing system determines

that insufficient battey power is available to wake up the data processing system, non complying with the WOL message.

Carter discloses a battery powered portable computer system which enters a standby mode to reduce power consumption (column 2, lines 8-12 & lines 50-55). Carter does disclose wherein the data processing system determines that insufficient battery power is available to wake up the data processing system, non complying with the message (column 2, lines 30-33).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant to implement Carter's method of not complying with a wake message if insufficient battery power is available with Sanu's wake on LAN message. A person of ordinary skill in this art would have been motivated to make the modification because by determines that insufficient battery power is available to wake up the data processing system prevents the data in the machine from being lost when the powering up process consumes the remaining energy in the battery (Carter: column 2, lines 33-35).

#### ***Allowable Subject Matter***

Claims 2,7,8,10,15,16,19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Ehne whose telephone number is (571)-272-2471. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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